

Report Date: March 27, 2009

United States District Court

**FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

for the

APR 22 2009

Eastern District of Washington

**JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON**

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender**

(Probation Form 49, Waiver of Hearing is Attached)

Name of Offender: Jesse McKay

Case Number: 2:98CR02130-001

Name of Sentencing Judicial Officer: The Honorable Robert H. Whaley, Chief U.S. District Judge

Date of Original Sentence: 9/22/1999

Type of Supervision: Supervised Release

Original Offense: Crime on Indian Reservation -
Murder Second Degree, 18 U.S.C. § 1111

Date Supervision Commenced: 03/29/2009

Original Sentence: Prison - 135 Months; TSR - 60
Months

Date Supervision Expires: 03/28/2014

PETITIONING THE COURT

To modify the conditions of supervision as follows:

- 14 You shall undergo a substance abuse evaluation and, if indicated, enter into and successfully complete an approved substance abuse treatment program, including aftercare. You shall contribute to the cost of treatment according to your ability. You shall allow full reciprocal disclosure between the supervising probation officer and treatment provider.
- 15 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.
- 16 You shall have no contact with the victim in person, by letter or other communication devices, audio or visual devices, or through a third party, unless authorized by the supervising probation officer. You shall not enter the premises or loiter within 1,000 feet of the victim's residence or place of employment.
- 17 You shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

CAUSE

The purpose of this petition is to apprise the Court of the status of the aforementioned case, in light of the Ninth Circuit Court of Appeals' finding in United States v. Stevens (9th Cir. 2005), and to request that the conditions of supervision be modified to authorize a maximum of six random drug tests per month.

Prob 12B

Re: McKay, Jesse

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Jesse McKay was asked whether he would waive his right to a hearing and agree to the modifications as previously described. As indicated by the enclosed Waiver of Hearing to Modify Conditions of Supervised Release form, Mr. McKay has agreed to the proposed modifications.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 4-20-09



U.S. Probation Officer

THE COURT ORDERS

- ☐ No Action
- ☐ The Extension of Supervision as Noted Above
- ☒ The Modification of Conditions as Noted Above
- ☐ Other



Signature of Judicial Officer

4/22/09

Date

United States District Court

Eastern District of Washington

Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows:

- 14 You shall undergo a substance abuse evaluation and, if indicated, enter into and successfully complete an approved substance abuse treatment program, including aftercare. You shall contribute to the cost of treatment according to your ability. You shall allow full reciprocal disclosure between the supervising probation officer and treatment provider.
- 15 You shall abstain from alcohol and shall submit to testing (including urinalysis and Breathalyzer), as directed by the supervising probation officer, but no more than six tests per month, in order to confirm continued abstinence from this substance.
- 16 You shall have no contact with the victim in person, by letter or other communication devices, audio or visual devices, or through a third party, unless authorized by the supervising probation officer. You shall not enter the premises or loiter within 1,000 feet of the victim's residence or place of employment.
- 17 You shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon.

Witness:



U.S. Probation Officer

Signed:



Jesse McKay
Probationer or Supervised Releasee

4/20/09

Date